



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0272; FRL-9978-17-Region 9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District; Reasonably Available Control Technology Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) portion of the California State Implementation Plan (SIP), which applies to the San Joaquin Valley of California (“Valley”). These revisions concern the District’s demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). We are also proposing to approve a public draft version of SJVUAPCD’s supplement to its 2014 RACT SIP demonstration, which contains relevant permit conditions for J.R. Simplot’s Nitric Acid plant in Helm, California (CA) and negative declarations where the District concludes it has no sources subject to certain Control Techniques Guidelines (CTG) documents. We are proposing action on local SIP revisions under the Clean Air Act (CAA or “the Act”). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0272

at <https://www.regulations.gov/>, or via email to Stanley Tong, at tong.stanley@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947-4122, tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

A. *What documents did the State submit?*

On June 19, 2014, the SJVUAPCD adopted the "2014 Reasonably Available Control Technology (RACT) Demonstration for the 8-Hour Ozone State Implementation Plan (SIP)" ("2014 RACT SIP"), and on July 18, 2014, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP. On January 18, 2015, the submittal of the *2014 RACT SIP* was deemed complete by operation of law.

On May 4, 2018, CARB transmitted the District's public draft version of relevant permit conditions in a permit to operate for J.R. Simplot's Nitric Acid plant in Helm, CA and negative declarations for several CTG source categories, along with a request for parallel processing.¹ The

¹ Under the EPA's "parallel processing" procedure, the EPA proposes rulemaking action concurrently with the state's proposed rulemaking. If the state's proposed rule is changed, the EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, the EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the rule has been fully adopted by California and submitted formally to the EPA for incorporation into the SIP. See 40 CFR part 51, appendix V. See also [https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2_old/19921028_calcagni_sip_redesignation_requirements\(alt\).pdf](https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2_old/19921028_calcagni_sip_redesignation_requirements(alt).pdf).

District plans to adopt negative declarations for CTGs covering magnetic wire; synthesized pharmaceutical products; pneumatic rubber tires; leaks from synthetic organic chemical polymer manufacturing industry (SOCMI) equipment; high-density polyethylene, polypropylene and polyester resins; air oxidation processes in SOCMI; reactor processes and distillation operations in SOCMI; and surface coating operations at shipbuilding and ship repair facilities.² As noted in footnote 1 of this document, under our parallel processing procedure, the EPA proposes action on a public draft version of a SIP revision but will take final action only after the final version is adopted and submitted to the EPA for approval. In this instance, we are proposing action based on the public draft version of the “Supplement to the 2014 Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 8-hour Ozone Standard” (*“Supplement to the 2014 RACT SIP”*) submitted by CARB on May 4, 2018, and will not take final action until the final version of the *Supplement to the 2014 RACT SIP* is adopted and submitted to the EPA. CARB’s May 4, 2018 letter indicates that the District Board is scheduled to consider approval of the *Supplement to the 2014 RACT SIP* on June 21, 2018, and if it is approved, CARB will submit the final package to the EPA.

Also included with the District’s *2014 RACT SIP* submittal package was a copy of its RACT demonstration for the 1997 8-hour ozone standard “*2009 RACT SIP*.”

On June 16, 2016, the SJVUAPCD adopted the “2016 Ozone Plan for the 2008 8-Hour Ozone Standard” (“*2016 Ozone Plan*”), and on August 24, 2016, CARB submitted it to the EPA for approval as a revision to the California SIP. Chapter 3.4 of the *2016 Ozone Plan* states that

² The SJVUAPCD’s Governing Board is scheduled to consider adopting the *Supplement to the 2014 RACT SIP*, including relevant permit conditions in a permit to operate for J.R.Simplot’s Nitric Acid plant in Helm, CA and several negative declarations, on June 21, 2018.

“the District updated the RACT evaluation and included VOC sources in the evaluation in Appendix C.” Appendix C of the *2016 Ozone Plan*, which is titled, “Stationary and Area Source Control Strategy Evaluations,” includes evaluations of individual rules for RACT. On February 24, 2017, the submittal of the *2016 Ozone Plan* was deemed complete by operation of law.³

B. *Are there other versions of these documents?*

There are no previous versions of the documents described above in the SJVUAPCD portion of the California SIP for the 2008 8-hour ozone NAAQS.

C. *What is the purpose of the submitted documents?*

Volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) together produce ground-level ozone, smog, and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_x emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a CTG document and for any major source of VOCs or NO_x. The SJVUAPCD is subject to this requirement because it regulates an ozone nonattainment area classified as an Extreme ozone nonattainment area for the 2008 8-hour ozone NAAQS.⁴ Therefore, the SJVUAPCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 10 tons per year (tpy) of VOCs or NO_x is a major

³ We are only proposing action on Chapter 3.4 and Appendix C of the *2016 Ozone Plan* in order to demonstrate VOC RACT for all applicable sources for the 2008 NAAQS. We will take action on the remainder of the *2016 Ozone Plan* in a separate action.

⁴ 40 CFR 81.305; 77 FR 30088 (May 21, 2012).

stationary source in an Extreme ozone nonattainment area (CAA section 182(e), (f), and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 8-hour ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG source category, and that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. See 80 FR 12264, at 12278 (March 5, 2015) and 70 FR 71612, at 71652 (November 29, 2005).

SJVUAPCD's *2014 RACT SIP* contains the District's demonstration that its NO_x rules implement RACT and contains a review of major stationary sources of NO_x that emit or have the potential to emit at least 10 tpy of NO_x.⁵ The *2016 Ozone Plan* contains the District's review of its NO_x and VOC rules for RACT and states: "The District adopted its 2014 RACT SIP on June 19, 2014 to satisfy requirements for the 2008 8-hour ozone standard pursuant to the [EPA's] proposed 2015 Implementation Rule guidance document. The 2014 RACT SIP analysis demonstrates that the District meets or exceeds RACT for all applicable NO_x source categories. In addition, in developing this attainment plan, the District updated the RACT evaluation and included VOC sources in the evaluation in Appendix C (Stationary and Area Source Control Strategy Evaluations)."⁶ The *Supplement to the 2014 RACT SIP* contains relevant permit

⁵ SJVUAPCD *2014 RACT SIP* Chapter 3.

⁶ See *2016 Ozone Plan* available at http://valleyair.org/Air_Quality_Plans/Ozone-Plan-2016/Adopted-Plan.pdf page 3-6.

conditions to implement RACT for a major NO_x source, J.R. Simplot's Nitric Acid plant in Helm, CA. The *Supplement to the 2014 RACT SIP* also contains negative declarations for several CTG source categories for which the District states it does not have stationary sources or emitting facilities in the Valley related to the CTGs.

The submitted documents and supplemental clarifying information provide SJVUAPCD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. The EPA's technical support document (TSD) has more information about the District's submissions and the EPA's evaluations thereof.

II. The EPA's Evaluation and Proposed Action

A. *How is the EPA evaluating the submitted documents?*

SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_x in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The SJVUAPCD regulates an Extreme ozone nonattainment area (see 40 CFR 81.305) so the District's rules must implement RACT.

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted CTG-based regulations (because they have no sources above the CTG recommended applicability threshold) regardless of whether such negative declarations were made for an earlier SIP.⁷ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist in the SJVUAPCD.

The District's analysis must demonstrate that each major source of NO_x or VOCs in the

⁷ 57 FR 13498, 13512 (April 16, 1992).

nonattainment area is covered by a RACT-level rule. In addition, for each CTG source category, the District must either demonstrate that a RACT-level rule is in place, or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO_x Supplement), 57 FR 55620, November 25, 1992.
5. Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), “RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers.”
6. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard – Phase 2” (70 FR 71612; November 29, 2005); and
7. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements” (80 FR 12264; March 6, 2015).

B. *Do the submitted documents meet the evaluation criteria?*

The *2014 RACT SIP* and *Supplement to the 2014 RACT SIP* build on the District's previous RACT SIP demonstration for the 1997 8-hour ozone NAAQS, *2009 RACT SIP*,⁸ and cites to its ozone plan for the 2008 8-hour ozone NAAQS ("*2016 Ozone Plan*"). The *2014 RACT SIP* includes a demonstration that major NO_x sources in the Valley are covered by RACT rules, a demonstration that the District's NO_x prohibitory rules satisfy RACT levels of stringency, and a statement that the District's *2016 Ozone Plan* will contain additional evaluations. The *2014 RACT SIP* did not contain an updated list of major VOC sources, and a demonstration that the District's VOC prohibitory rules satisfy RACT levels of stringency.⁹

Chapter 3.4 of the *2016 Ozone Plan* states that in developing its attainment plan, the District updated its RACT evaluation and included VOC sources in the evaluation in Appendix C of the *2016 Ozone Plan*. Accordingly, we evaluated these submissions together to determine whether the District has in place RACT-level rules or negative declarations for each required category.

⁸ Our January 10, 2012 action (77 FR 1417) finalized a partial approval and partial disapproval of San Joaquin's RACT SIP for the 1997 8-hour ozone NAAQS. The partial disapproval was based on our conclusion that the SJVUAPCD had not demonstrated that four rules satisfy RACT: (Rules 4352 *Solid Fuel Fired Boilers*, 4402 *Crude Oil Production Sumps*, 4625 *Wastewater Separators*, and 4682 *Polystyrene, Polyethylene and Polypropylene Products Manufacturing*), and for which the EPA had not yet approved three additional rules into the SIP as satisfying RACT: (Rules 4566 *Organic Material Composting*, 4694 *Wine Fermentation*, and *Fumigant VOC Regulations* – California Department of Pesticide Regulation). These rules were subsequently approved as satisfying RACT [Rule 4352: 77 FR 66548 (November 6, 2012); Rule Rules 4402 and 4625: 77 FR 64427 (October 22, 2012); Rule 4682: 77 FR 58312 (September 20, 2012); Rule 4566: 77 FR 71129 (November 29, 2012); Rule 4694: 77 FR 71109 (November 29, 2012); and Fumigation: 77 FR 65294 (October 26, 2012)].

⁹ The EPA's proposed Implementation Rule for the 2008 8-Hour Ozone NAAQS, June 6, 2013 (78 FR 34178), solicited comments on modifying existing guidance to provide additional flexibility where VOC reductions may have limited impact. Although the EPA did not ultimately adopt this approach (see 80 FR 12264, at 12279; March 6, 2015), the deadline for submitting RACT SIPs was prior to the date that the EPA finalized its SIP Implementation Rule. Instead of submitting a RACT evaluation of its VOC rules in the *2014 RACT SIP*, the District submitted an analysis purporting to demonstrate that the nonattainment area is one in which VOC reductions would have limited impact. Because the EPA did not finalize this approach, we are not evaluating this part of the District's submission.

1. Efforts to identify non-CTG major sources within the District

a. SJVUAPCD action

For NO_x sources, SJVUAPCD states in its *2014 RACT SIP* that it reviewed its database of current Permits to Operate (PTO) to identify facilities that have the potential to emit at least 10 tons per year of NO_x. Table 4 of the *2014 RACT SIP* lists the facility name, the type of operation or processes occurring at the facility, and the SIP rule(s) that apply to operations at the facility.

For VOC sources, although the *2014 RACT SIP* did not contain an updated list of major VOC sources, the District's submittal included a copy of the *2009 RACT SIP*, which contained a list of major VOC sources as of 2009. SJVUAPCD subsequently provided a list of additional major stationary sources of VOC since its *2009 RACT SIP*.¹⁰

b. The EPA's evaluation

For major stationary sources of NO_x, we reviewed CARB's 2014 emissions inventory database and determined that there were four stationary sources with NO_x emissions greater than 10 tpy that were not included in Table 4 of the District's *2014 RACT SIP*. To determine if these sources were subject to RACT rules, we searched our internal database and reviewed the facilities' PTOs to identify what equipment was generating NO_x emissions and whether there was an associated SIP rule. We concluded that each of the facilities' major stationary source NO_x producing operations were subject to RACT rules with the exception of J.R. Simplot's Nitric Acid plant in Helm, CA. The SJVUAPCD is submitting, in its parallel processing request, as Attachment A to the *Supplement to the 2014 RACT SIP*, the relevant permit conditions for J.R.

¹⁰ Email dated May 4, 2018 from Chay Thao (SJVUAPCD) to Stanley Tong (EPA), RE: major VOC sources in SJ since 2009 RACT SIP. See also *2009 RACT SIP*, chapter 3, available at http://valleyair.org/Air_Quality_Plans/docs/RACTSIP-2009.pdf.

Simplot's PTO to correct this problem. We reviewed the proposed permit conditions, including the NO_x limits, continuous emissions monitoring and data quality requirements, and recordkeeping and reporting requirements and conclude they implement NO_x RACT.

For major non-CTG stationary sources of VOC, we reviewed the District's list of major VOC sources in its *2009 RACT SIP*, and the two additional major sources of VOC subsequently identified by the District. Based on our review, we conclude that these major VOC sources are covered by rules that implement RACT. We also reviewed CARB's 2014 emissions inventory database and determined that there were several stationary sources with VOC emissions greater than 10 tpy that were not listed in the District's *2009 RACT SIP* and therefore appear to be "new" major sources since the District's *2009 RACT SIP*. Based on a review of the facilities' description as found through an internet search and/or their Standard Industrial Classification (SIC) code, many of these new major sources appear to be related to composting, wineries, or petroleum production, and one source is a commercial printer. We determined that all these sources are already covered by SIP rules that implement RACT. Additional information regarding the EPA's evaluation can be found in the TSD.

2. The bases for concluding local rules implement RACT

a. SJVUAPCD action

For NO_x sources, Chapter 4 of the *2014 RACT SIP* states that the District conducted "a literature review and evaluation of the District's stationary and area source regulations that control NO_x emissions to ensure that all District NO_x prohibitory rules satisfy RACT requirements." It also states that the District compared "...each District rule against federal rules,

state regulations, and comparable rules from California’s most technologically progressive air districts. The applicability, stringency, and enforceability of every District NO_x rule was reviewed to ensure all rules meet or exceed federal RACT requirements.”¹¹

For VOC sources, Chapter 2.2 of the *2014 RACT SIP* states that “[a]lthough the District’s VOC rules will not be evaluated as part of the *2014 RACT SIP*, each regulation was evaluated in depth for the *2009 RACT SIP*.” As stated earlier, the District subsequently submitted an updated RACT analysis of its VOC rules in Appendix C of its *2016 Ozone Plan*.

b. The EPA’s evaluation

The District must submit a RACT certification or a negative declaration for each CTG source category, and must demonstrate that each major stationary source of NO_x or VOC in the District is covered by a rule that implements RACT-level controls. The fact that the EPA found that a rule met RACT in a past RACT SIP evaluation is not, by itself, sufficient to establish that the rule still meets RACT, because what is reasonably available changes over time. However, our approval of the *2009 RACT SIP* indicates that RACT rules were in place for the required sources as of 2009, and in concert with the District’s updated RACT analysis in the *2014 RACT SIP* and Appendix C of its *2016 Ozone Plan*, we agree with the District’s conclusion that rules that met RACT in 2009 continued to meet RACT in 2014.

1. NO_x rules

The *2014 RACT SIP* conducts a RACT analysis and concludes that the District’s rules for all major sources meet RACT. We agree with this conclusion based on our review of the District’s analysis of relevant rules in the *2014 RACT SIP*, *2016 Ozone Plan*, a comparison of

¹¹ *2014 RACT SIP* at Chapters 2.2 and 4.

specific rules against rules in other air districts, and a comparison against federal regulations and guidance documents, where appropriate. The details of our evaluation are provided in the TSD, including a more focused evaluation of Rule 4103 - *Open Burning*, Rule 4311 - *Flares*, and Rule 4702 - *Internal Combustion Engines*.

2. VOC Rules

The 2016 Ozone Plan, Appendix C, concludes that the District's rules meet RACT for all applicable rules. We agree with this conclusion based on our review of the District's analysis of relevant rules in the 2016 Ozone Plan, Appendix C, the 2013 Plan for the Revoked 1-hour ozone standard, the 2009 RACT SIP, and additional explanatory materials provided by the District and found in the docket for this action. The details of our evaluation are provided in the TSD, including a more focused evaluation of Rule 4402 - *Crude Oil Production Sumps*, Rule 4566 - *Organic Material Composting Operations*, Rule 4624 - *Transfer of Organic Liquid*, Rule 4653 - *Adhesives and Sealants*, Rule 4409 – *Components at Light Crude Oil Production Facilities*, *Natural Gas Production Facilities*, and *Natural Gas Processing Facilities*, Rule 4605 – *Aerospace Assembly and Component Coating Operations*, and Rule 4621 – *Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants*.

3. Negative declarations for source categories where there are no facilities subject to a CTG

In lieu of adopting RACT rules, Districts can adopt negative declarations for CTG source categories if there are no sources in the District covered by the CTG.

The District's parallel processing request states that it "previously adopted Negative Declarations for CTGs ... for Shipbuilding and Ship Repair Operations, Control of Volatile

Organic Emissions from Manufacture of Synthesized Pharmaceutical Products, and Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires...and is confirming that the Negative Declarations adopted previously are still valid.” The District’s parallel processing request also proposes to adopt the following negative declarations because the District concludes, based on a review of its permitted sources, SIC codes, and internet searches that there are no stationary sources or emitting facilities related to the CTG source categories listed in Table 1. The EPA searched CARB’s emissions inventory database and verified that there do not appear to be facilities in the SJVUAPCD that are subject to these CTGs. We believe that these five new negative declarations, and three reaffirmed negative declarations are consistent with the relevant policy and guidance regarding RACT.

Table 1 Negative Declarations – parallel processing

CTG Document Number	Title
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating of Insulation of Magnet Wire
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry

CTG Document Number	Title
EPA-453/R-94-032	Alternative Control Technology Document – Surface Coating Operations at Shipbuilding and Ship Repair Facilities
61 FR-44050 8/27/96	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating)

Our TSD has more information on our evaluation of the submitted *2014 RACT SIP*, *Supplement to the 2014 RACT SIP* (J.R. Simplot permit to operate and negative declarations), and *2016 Ozone Plan* – Chapter 3.4 and Appendix C.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the *2014 RACT SIP*, *Supplement to the 2014 RACT SIP* (relevant permit conditions for the J.R. Simplot Nitric Acid plant in Helm, CA and negative declarations), and *2016 Ozone Plan* Chapter 3.4 and Appendix C, because we believe they collectively fulfill the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112 for the 2008 ozone NAAQS. As noted above, our proposed action also relies upon our evaluation of the public draft version of the relevant permit conditions for the J.R. Simplot Nitric Acid plant in Helm, CA and on the negative declarations planned for adoption by the SJVUAPCD in June 2018, which we will not take final action on until they are adopted and submitted to us as a revision to the California SIP. If the *Supplement to the 2014 RACT SIP* that we have evaluated were to be revised significantly prior to adoption and submittal, we would need to reconsider our proposed action accordingly.

We will accept comments from the public on this proposal until **[Insert date 30 days**

after date of publication in the Federal Register]. If we take final action to approve the submitted documents, our final action will incorporate them into the federally enforceable SIP.

III. Incorporation by Reference

In this rule the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference certain permit conditions for the J.R. Simplot Nitric Acid plant in Helm, CA as described above in the preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because

SIP approvals are exempted under Executive Order 12866;

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: May 8, 2018.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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